

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE**

**Call to Order:** By **CHAIRMAN TOM ZOOK**, on January 10, 2003 at 5:30 P.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Tom Zook, Chairman (R)  
Sen. Bill Tash, Vice Chairman (R)  
Sen. Keith Bales (R)  
Sen. Gregory D. Barkus (R)  
Sen. Edward Butcher (R)  
Sen. Mike Cooney (D)  
Sen. John Esp (R)  
Sen. Royal Johnson (R)  
Sen. Bob Keenan (R)  
Sen. Rick Laible (R)  
Sen. Bea McCarthy (D)  
Sen. Linda Nelson (D)  
Sen. Trudi Schmidt (D)  
Sen. Debbie Shea (D)  
Sen. Corey Stapleton (R)  
Sen. Emily Stonington (D)  
Sen. Jon Tester (D)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** Sen. John Cobb (R)

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 135, 12/30/2002; SB 134,  
12/30/2002  
Executive Action: None.

**HEARING ON SB 135**

**Sponsor:** SEN. FRED THOMAS, SD 31, Stevensville

**Proponents:** Jason Thielman, Secretary of State Chief Deputy  
Joe Lamson, Communications Director,  
Superintendent of Public Instruction

**Opponents:** None.

**Opening Statement by Sponsor:**

**SEN. FRED THOMAS, SD 31, Stevensville** stated that SB 135 was a technical correction to SB 495. Section 1 language would convert the school guarantee account from a sub-fund of the general fund to a state special revenue account in order to avoid the existing problem of double counting revenue in the general fund and would remove liability for repaying the loan from the general fund and place it in a special revenue account as it was designed. Further, the bill would ratify the Board of Investment's practice of charging interest monthly on the loan and authorizes the purchase of mineral royalties. Section 2 would clarify the depositing of funds.

**Proponents' Testimony:**

**Jason Thielman, Secretary of State Chief Deputy**, rose in support of SB 135 and asked for the support of the committee.

**Joe Lamson, Communications Director, Superintendent of Public Instruction**, testified the bill was a clean-up bill to a bill that had bipartisan support in the last session.

**Opponents' Testimony:**

None.

**Questions from Committee Members and Responses:**

None.

**Closing by Sponsor:**

**SEN. THOMAS** closed on the bill.

**CHAIRMAN TOM ZOOK** addressed an issue regarding actions taken in a subcommittee and noted that all committee members will know when the Senate Finance Committee will take executive action.

**HEARING ON SB 134**

**Sponsor:** SEN. WALTER MCNUTT, SD 50, Sidney

**Proponents:** Chuck Swysgood, Office of Budget and Program Planning

**Opponents:** Bill Kennedy, Yellowstone County Commissioner and  
First Vice-President of MACO  
Harold Blatty, Assistant Director Montana  
Association of Counties  
Peggy Baltron, Cascade County Commission  
Ron Alles, Chief Administrative Officer, Lewis and  
Clark County  
Tom Stelling, Cascade County Commissioner  
Mary Phippen, Montana Association of Clerks of  
District Court  
Jim Smith, Montana Sheriffs and Peace Officers  
Association and Montana County Attorney's  
Association  
Don Hargrove, Gallatin County  
Edward Demert, Liberty County Commissioner

**Opening Statement by Sponsor:**

SEN. WALTER MCNUTT, SD 50, Sidney advised he was reluctant to bring the bill as he was the chief sponsor of SB 176 in the last session--the state assumption of district courts. The budget request for the assumption submitted by the judiciary and the executive budget were \$17 million apart. The bill would transfer certain assumption costs and responsibilities back to the counties. He felt he had no choice to bring the bill before the committee and had never imagined such a disparity. He stated a need to find out what the discrepancy was and thought there might be some misreporting. He had asked the Chairman to consider a subcommittee to look at the bill.

**Proponents' Testimony:**

Chuck Swysgood, Office of Budget and Program Planning, advised the bill was at their request because of the difference between the budget of the judiciary and what was approved. They felt the legislature needed to have input on the ramifications of the district court assumptions. He said the bill addressed costs counties are now picking up that the state would assume on July 1, 2003. He had been shocked by the request of the judiciary. His office had calculated the cost of SB 176 at \$18.7 million per year and had no idea that the costs the counties were picking up

would come to so high a figure. The judiciary asked for \$66.9 million and \$49.6 had been funded in the budget which was a \$17.3 million shortfall. He determined they would fund only what the district court operation budget was plus the district court assumptions that were contained in SB 176 from last session (the \$49.6 million in the budget). SB 134 addresses the differences.

**CHAIRMAN ZOOK** asked opponents to keep in mind the bill would go to a subcommittee.

**Opponents' Testimony:**

**Bill Kennedy, Yellowstone County Commissioner**, opposed the bill and supported the idea of a subcommittee stating they would work with the subcommittee on the numbers. He advised Yellowstone County would have a one-time cost for sick and vacation determination of about \$150,000 and potential annual funding reductions and additional costs of approximately \$440,000. He had thought at the end of last session the working out of the bill had been taken care of. He advised there were unfunded mandates in SB 134 that would supercede the unfunded mandate bill and that there were a lot of costs now coming back to local governments.

**Harold Blatty, MACO**, agreed that the entire issue needs input and suggested looking at other related bills as well. He asserted the wheels had not fallen off--SB 176 was still a good bill that needed some tuning and adjustments but was the right thing to do.

**Peggy Baltron, Cascade County Commission**, noted the entire Cascade County Commission was in attendance to express their concern about the fiscal ramifications. She advised against decoupling the responsibility for management of the court system and those who pay the bills. The vacation and sick leave liability for Cascade County was \$225,000. The management tool used in state and county government for vacation and sick leave liabilities was vacancy savings. Without the employees, the county would not have that management tool. She stated the county did not experience a windfall with SB 176. They used excess district court reserve to build a courtroom. There were \$288,000 in qualified un-reimbursed expenses from the district court. It was anticipated they would take that money out of their reserve. After this year there will be no more reserve. The county supported full funding of the state district court system.

**Ron Alles, Chief Administrative Officer, Lewis and Clark County**, stated opposition to the bill but supported the subcommittee

idea, looking at the numbers, identifying the problem and fixing it.

**Tom Stelling, Cascade County Commissioner,** declared opposition to the counties absorbing costs for the state district courts.

**{Tape: 1; Side: B}** He favored finding the actual costs and cutting where needed.

**Mona Jamison, Gallatin County,** stated opposition to the bill and noted they had opposed SB 176. They were willing to be an active part of the work of the subcommittee and favored solving the funding problem for the court. Now that the assumption had occurred the district courts must be able to act effectively in carrying out their constitutional mandates. She advised the committee not to break the trust. Last session when they testified in opposition to the bill they were told that when the assumption was implemented the legislature would make sure the same services were provided, there would not be a cost shifting and there would be adequate funding. She felt the remedy was tied up in how the deficit problem would be solved.

**Mary Phippen, Montana Association of Clerks of District Court,** expressed opposition to the bill. She presented written testimony and a proposed amendment and stated they would help with the work in subcommittee. **EXHIBIT(fcs05a01)**

**Jim Smith, Montana Sheriffs and Peace Officers Association and Montana County Attorneys Association,** stated they were troubled by the bill and would do what they could to work with the committee.

**Don Hargrove, Gallatin County,** opposed the bill. He looked forward to the subcommittee addressing the fundamental issues. The fact that the bill addressed and would bypass unfunded mandates was troubling.

**Edward Demert, Liberty County Commissioner,** opposed the bill. He stated that they were a small county and didn't get too many trials, but if they were to have one and incur those costs it would put them out of business. Their resources are limited and they would have to take money from other areas.

**Questions from Committee Members and Responses:**

**SEN. MIKE COONEY,** expressed concern about the problem with the numbers and the potential for additional problems for the counties. He asked if there had ever been an in-depth analysis by the Legislative Auditor's Office or a report of any sort. It

seemed to him that was something that needed to be done to assist the subcommittee.

**SEN. MCNUTT** advised there had not been an audit. He chaired an interim committee that did the study project on SB 176 with the assistance of the Department of Revenue soliciting information from the counties. He agreed an audit ought to be a part of the work of the subcommittee to find out what took place, verify if the original reports were authentic, and to look at the administration costs.

**SEN. COONEY** suggested inviting the Lgislative Auditor's Office to sit in and perhaps do some research.

**CHAIRMAN ZOOK** advised that **SEN. MCNUTT**, the Budget office and members of county commissions had also made that suggestion. They also suggested the subcommittee. He was certain that would be part of the recommendation to the subcommittee.

**SEN. MCNUTT** noted he spoke to **Mr. Scott Seacat, Legislative Auditor**, who was already compiling numbers that would help expedite the work that needed to be done.

**Mr. Swysgood** advised that a full year of experience would be needed before a bonafide audit would be possible--when there is enough information available.

**SEN. COONEY** agreed that it was not possible to do a full-fledged audit, but the auditor could crunch numbers.

**SEN. RICK LAIBLE** asked for clarification on HB 124 and SB 176.

**Mr. Swysgood** replied that HB 124 was the mechanism that distributed the payment. SB 176 contained an appropriation up to \$25 million based on the actual expenditures in 2001. Those actual expenditures were somewhere around \$18 million. When they did the budget, they took those actual expenditures and then applied the growth rate that was to be applied for that particular transfer to come up with the figure in the budget.

**SEN. LAIBLE** inquired if he and his department were in favor of HB 124 and **Mr. Swysgood** indicated they had no position on it. **SEN. LAIBLE** restated that under HB 124 the state would get the additional revenue and would pick up the costs for the district courts and **Mr. Swysgood** said that was correct.

**SEN. LINDA NELSON** asserted that when SB 176 was passed a whole new state bureaucracy was set up. She wondered if it was

possible, if there was some money available, to dispense that money to the counties if they have to reassume the courts.

**SEN. MCNUTT** asked if she meant to "put the genie back in the bottle". **SEN. NELSON** replied yes. **SEN. MCNUTT** said he assumed if that were the case then the inflows would then go back to the counties.

**SEN. BEA MCCARTHY** asked for clarification about the initial expenses that the counties would have.

**SEN. MCNUTT** said the counties send requests for disbursements into the district court council and he had heard that they were being delayed, or being paid at a lesser rate. He noted he was having trouble getting his hands on the numbers.

**SEN. MCCARTHY** asked who would be responsible for sick leave and health benefits if the employees that were assumed on July 1 went back to being county employees.

**Mr. Swysgood** deferred to **Chief Justice Karla Gray**. **Chief Justice Gray** advised that if all 275 employees were sent back to the counties as of July 1, 2003, the state clearly would be responsible for their benefits and accumulated sick and annual leave for that year.

**SEN. MCCARTHY** asked about accumulated benefits and if that information could be provided to the subcommittee.

**Chief Justice Gray** said they would be able to provide that information. They already had the amount of accumulated leave from the counties for each of the employees that they came over with on July 1. She advised that some of the employees came over with 3000 hours when they came to state employment. Assuredly, they would not accumulate anything like that in one year as state employees.

**SEN. MCCARTHY** felt that the county was where that leave was accumulated and was concerned that the state would be paying for something that was not its liability.

**Chief Justice Gray** advised the state had already assumed those responsibilities when SB 176 was passed during the 57th Legislature. Under current law, the 275 employees who became state employees on July 1 came with their accumulated annual and sick leave hours and the state took them as is. SB 134 proposes to leave counties responsible for the accumulated amounts that their employees came over with and the state would be responsible from that period on. Leave statutes require the state to pay out

based on the current per hour basis and counties would be billed back for the accumulated hours the employees had at the time they came over to the state at the rate they came over with.

**SEN. MCCARTHY** indicated she would put what she wanted in writing for the subcommittee and that way they could get back to her.

**Closing by Sponsor:**

**SEN. MCNUTT** closed on the bill and reiterated that it was a wise move to have a subcommittee work on the issue.

**ADJOURNMENT**

Adjournment: 6:30 P.M.

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SEN. TOM ZOOK, Chairman

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PRUDENCE GILDROY, Secretary

TZ/PG

**EXHIBIT (fcs05aad)**